



**2018/0198(COD)**

25.9.2018

# **AMENDMENTS**

## **1 - 16**

### **Draft position in the form of amendments**

**Adina-Ioana Vălean**

Mechanism to resolve legal and administrative obstacles in a cross-border context

Proposal for a regulation

(COM(2018)0373 – C8-0228/2018 – 2018/0198(COD))



**Amendment 1**  
**Marijana Petir**

**Proposal for a regulation**  
**Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**(2a) To improve the life of citizens in cross-border regions on maritime borders or in cross-border regions between the Member States and third countries, the application of this Regulation and the use of the Mechanism should be extended to those regions, while respecting Union law.**

Or. en

**Amendment 2**  
**Mireille D'Ornano**

**Proposal for a regulation**  
**Recital 3**

*Text proposed by the Commission*

*Amendment*

(3) In its Communication 'Boosting growth and cohesion in EU border regions'<sup>23</sup> ('the Border Regions Communication') the Commission **sets out** that over the past decades, the European integration process has helped internal border regions to transform from mainly peripheral areas into areas of growth and opportunities. The completion of the Single Market in 1992 has boosted Union productivity and reduced costs through the abolition of customs formalities, harmonisation or mutual recognition of technical rules and lower prices as a result of competition; intra-EU trade has increased by 15% over 10 years; additional growth has been generated and around 2.5 million more jobs have been created.

(3) In its Communication 'Boosting growth and cohesion in EU border regions'<sup>23</sup> ('the Border Regions Communication') the Commission **assesses** that over the past decades, the European integration process has helped internal border regions to transform from mainly peripheral areas into areas of growth and opportunities. The completion of the Single Market in 1992 has boosted Union productivity and reduced costs through the abolition of customs formalities, harmonisation or mutual recognition of technical rules and lower prices as a result of competition; intra-EU trade has increased by 15% over 10 years; additional growth has been generated and around 2.5 million more jobs have been created.

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<sup>23</sup> Communication from the Commission to

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the Council and the European Parliament  
'Boosting growth and cohesion in EU  
border regions' - COM(2017) 534 final,  
20.9.2017.

the Council and the European Parliament  
'Boosting growth and cohesion in EU  
border regions' - COM(2017) 534 final,  
20.9.2017.

Or. fr

**Amendment 3**  
**Mireille D'Ornano**

**Proposal for a regulation**  
**Recital 4**

*Text proposed by the Commission*

(4) The Border Regions Communication has also given evidence of the fact that there still exist a number of legal barriers in border regions, especially those related to health services, labour regulation, taxes, business development, and **barriers** linked to differences in administrative cultures and national legal frameworks. Neither European Territorial Cooperation funding nor the institutional support to cooperation by the European groupings of territorial cooperation (EGTCs) is sufficient alone to address the resolution of those barriers which constitute real obstacles to effective cooperation.

*Amendment*

(4) The Border Regions Communication has also given evidence of the fact that there still exist a number of legal barriers in border regions, especially those related to health services, labour regulation, taxes, business development, and **inherent difficulties** linked to differences in administrative cultures and national legal frameworks. Neither European Territorial Cooperation funding nor the institutional support to cooperation by the European groupings of territorial cooperation (EGTCs) is sufficient alone to address the resolution of those barriers which constitute real obstacles to effective cooperation.

Or. fr

**Amendment 4**  
**Mireille D'Ornano**

**Proposal for a regulation**  
**Recital 7**

*Text proposed by the Commission*

(7) In its Border Regions Communication, the Commission referred among other measures to an initiative

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started under the Luxembourg Presidency in 2015: A number of Member States are considering the merits of a new instrument to simplify cross-border projects by making it possible, on a voluntary basis and agreed by the competent authorities in charge, for the rules of one Member State to apply in the neighbouring Member State. This would apply to an individual project or action limited in time, located within a border region and initiated by local or regional authorities.

started under the Luxembourg Presidency in 2015: A number of Member States are considering the merits of a new instrument to simplify cross-border projects by making it possible, on a voluntary basis and agreed by the competent authorities in charge, for the rules of one Member State to apply in the neighbouring Member State. This would apply to an individual project or action *duly* limited in *space and* time, located within a border region and initiated by local or regional authorities.

Or. fr

## **Amendment 5** **Mireille D'Ornano**

### **Proposal for a regulation** **Recital 9**

#### *Text proposed by the Commission*

(9) In full respect of the constitutional and institutional set-up of the Member States, the use of the Mechanism should be voluntary with regard to those border regions of a given Member State where another effective mechanism exists or could be set up with the neighbouring Member State. It should consist of two measures: the signature and the conclusion of a European Cross-Border Commitment (the 'Commitment') or the signature of a European Cross-Border Statement (the 'Statement').

#### *Amendment*

(9) In full respect of the constitutional and institutional set-up *and sovereignty* of the Member States, the use of the Mechanism should be voluntary with regard to those border regions of a given Member State where another effective mechanism exists or could be set up with the neighbouring Member State. It should consist of two measures: the signature and the conclusion of a European Cross-Border Commitment (the 'Commitment') or the signature of a European Cross-Border Statement (the 'Statement').

Or. fr

## **Amendment 6** **Marijana Petir**

### **Proposal for a regulation** **Recital 9 a (new)**

**(9a) *The competent authorities of the Member States, countries, entities or regions involved should adopt, in accordance with their constitutional and legally defined specific competencies, the proposed ad hoc legal solution before concluding and signing the Commitment or signing the Statement pursuant to Articles 16 and 17.***

Or. en

**Amendment 7**  
**Mireille D'Ornano**

**Proposal for a regulation**  
**Recital 12**

*Text proposed by the Commission*

*Amendment*

(12) Legal obstacles are predominantly ***felt*** by persons interacting on land borders, because people cross borders on a daily or weekly basis. In order to concentrate the effect of this Regulation to the regions closest to the border and with the highest degree of integration and interaction between neighbouring Member States, this Regulation should apply to cross-border regions within the meaning of the territory covered by neighbouring land border regions in two or more Member States at NUTS level 3 regions<sup>26</sup>. This should not prevent Member States from applying the Mechanism also to maritime and external borders others than those with EFTA countries.

(12) Legal obstacles are predominantly ***encountered*** by persons interacting on land borders, because people cross borders on a daily or weekly basis. In order to concentrate the effect of this Regulation to the regions closest to the border and with the highest degree of integration and interaction between neighbouring Member States, this Regulation should apply to cross-border regions within the meaning of the territory covered by neighbouring land border regions in two or more Member States at NUTS level 3 regions<sup>26</sup>. This should not prevent Member States from applying the Mechanism also to maritime and external borders others than those with EFTA countries.

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<sup>26</sup> Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

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<sup>26</sup> Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

**Amendment 8**  
**Mireille D'Ornano**

**Proposal for a regulation**  
**Recital 14**

*Text proposed by the Commission*

(14) The Commission **should** set up a coordination point at Union level, as announced in the Border Regions Communication. That coordination point should liaise with the different national and, where relevant, regional Cross-border Coordination Points. The Commission should set up and maintain a database on Commitments and Statements in accordance with Regulation (EC) **No 45/2001** of the European Parliament and of the Council<sup>27</sup>.

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<sup>27</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

*Amendment*

(14) ***In the interests of good governance***, the Commission **could** set up a coordination point at Union level, as announced in the Border Regions Communication. That coordination point should liaise with the different national and, where relevant, regional Cross-border Coordination Points. The Commission should set up and maintain a database on Commitments and Statements in accordance with Regulation (EC) **No 45/2001** of the European Parliament and of the Council<sup>27</sup>.

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<sup>27</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

Or. fr

**Amendment 9**  
**Mireille D'Ornano**

**Proposal for a regulation**  
**Recital 16**

*Text proposed by the Commission*

(16) More specifically, this Regulation should define who can be an initiator of a

*Amendment*

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joint project. As the Mechanism should improve the implementation of joint cross-border projects, the first group should be bodies initiating or both initiating and implementing such joint project. The term project should ***be understood in a broad sense, covering*** both a specific item of infrastructure or a number of activities with regard to a certain territory or both. Secondly, a local or regional authority located in a given cross-border region or exercising public power in that cross-border region should be empowered to take the initiative to apply national law which constitutes an obstacle, but the amendment of or derogation from that law is outside their institutional competence. Thirdly, bodies set up for cross-border cooperation located in or covering at least partially a given cross-border region, including EGTCs, or similar bodies to organise cross-border development in a structured way should be initiator. Finally, bodies specialised in cross-border cooperation which may also be aware of effective resolutions found elsewhere in the Union for a comparable issue should also be enabled to start an initiative. In order to create synergy of bodies directly affected by the obstacle and those expert in cross-border cooperation in general, all groups may initiate the Mechanism jointly.

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Or. fr

**Amendment 10**  
**Mireille D'Ornano**

**Proposal for a regulation**  
**Recital 17**

*Text proposed by the Commission*

(17) The key actor in the Member States requested to conclude a Commitment or Statement should be the respective national or regional Cross-border Coordination

*Amendment*

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Points which is to liaise with all competent authorities in its Member State and with its counterpart in the neighbouring Member State. It should also be *clearly* established that the Cross-border Coordination Point may *decide* whether a procedure leading to the conclusion of a Commitment or a Statement is to be launched or whether for one or more legal obstacles a resolution has already found which could be applied. On the other hand, it should also be established that the Member State the legal provisions of which are to be applied in the other Member State may refuse such application outside its territory. Any decision should be justified and communicated.

Points which is to liaise with all competent authorities in its Member State and with its counterpart in the neighbouring Member State. It should also be established that the Cross-border Coordination Point may *give an informed opinion as to* whether a procedure leading to the conclusion of a Commitment or a Statement is to be launched or whether for one or more legal obstacles a resolution has already *been* found which could be applied. On the other hand, it should also be established that the Member State the legal provisions of which are to be applied in the other Member State may refuse such application outside its territory. Any decision should be justified and communicated.

Or. fr

## **Amendment 11** **Mireille D'Ornano**

### **Proposal for a regulation** **Recital 19**

#### *Text proposed by the Commission*

(19) The implementation of a self-executing Commitment should consist in the application of national provisions of another Member State. This should mean either the amendment of legally binding administrative acts already adopted in accordance with the normally applicable national law or, where this has not yet been done, the adoption of new administrative acts based on the legislation of another Member State. Where several authorities are each competent for different aspects of a complex legal obstacle, the Commitment should be accompanied by a timetable for each of these aspects. Respecting the subsidiarity principle, the adoption and transmission of those amended or new administrative acts should follow the national law on administrative procedures.

#### *Amendment*

(19) The implementation of a self-executing Commitment should consist in the application of national provisions of another Member State *with all the reservations referred to above*. This should mean either the amendment of legally binding administrative acts already adopted in accordance with the normally applicable national law or, where this has not yet been done, the adoption of new administrative acts based on the legislation of another Member State. Where several authorities are each competent for different aspects of a complex legal obstacle, the Commitment should be accompanied by a timetable for each of these aspects. Respecting the subsidiarity principle, the adoption and transmission of those amended or new administrative acts should follow the

**Amendment 12**  
**Mireille D'Ornano**

**Proposal for a regulation**  
**Recital 22**

*Text proposed by the Commission*

(22) The protection of persons resident in cross-border regions directly or indirectly affected by the application and monitoring of a Commitment and the amended legislation pursuant to a Statement, who consider themselves wronged by acts or omissions by the application should be clarified. Both for Commitment and Statement, the law of the neighbouring Member State would be applied in the committing Member State as incorporated into its own legislation and the legal protection should therefore be in the remit of the courts of the committing Member States even where persons have their legal residence in the transferring Member State. The same principle should apply for the legal redress against the Member State whose administrative act is challenged. However, a different approach should apply to legal redress against the monitoring of the application of the Commitment or Statement. Where an authority from the transferring Member State has accepted to monitor the application of the amended legal provisions of the committing Member State and can act with regard to persons resident in the cross-border area on behalf of the authorities of the committing Member State, but in its own name, the competent courts *should* be those of the Member State where those persons have their legal residence. On the other hand, where the competent transferring authority cannot act

*Amendment*

(22) The protection of persons resident in cross-border regions directly or indirectly affected by the application and monitoring of a Commitment and the amended legislation pursuant to a Statement, who consider themselves wronged by acts or omissions by the application should be clarified. Both for Commitment and Statement, the law of the neighbouring Member State would be applied in the committing Member State as incorporated into its own legislation and the legal protection should therefore be in the remit of the courts of the committing Member States even where persons have their legal residence in the transferring Member State. The same principle should apply for the legal redress against the Member State whose administrative act is challenged. However, a different approach should apply to legal redress against the monitoring of the application of the Commitment or Statement. Where an authority from the transferring Member State has accepted to monitor the application of the amended legal provisions of the committing Member State and can act with regard to persons resident in the cross-border area on behalf of the authorities of the committing Member State, but in its own name, the competent courts *must* be those of the Member State where those persons have their legal residence. On the other hand, where the competent transferring authority cannot act

in its own name, but in the name of the competent committing authority, the competent courts should be those of the committing Member State, regardless of the legal residence of the person.

in its own name, but in the name of the competent committing authority, the competent courts should be those of the committing Member State, regardless of the legal residence of the person.

Or. fr

**Amendment 13**  
**Mireille D'Ornano**

**Proposal for a regulation**  
**Recital 27**

*Text proposed by the Commission*

(27) The conditions for territorial cooperation should be created in accordance with the subsidiarity principle enshrined in Article 5(3) of the Treaty on the European Union. Member States have undertaken individual, bilateral or even multilateral initiatives to resolve legal border obstacles. However, those mechanisms do not exist in all Member States or not for all borders of a given Member State. The financing instruments (mainly Interreg) and the legal instruments (mainly EGTCs) provided at Union level so far have not been sufficient to resolve legal border obstacles throughout the Union . The objectives of the proposed action can consequently not be sufficiently achieved by the Member States, either at central level or at regional and local level, but ***can rather, by reason of*** the scale or effects of the proposed action, be better achieved at Union level. ***Further action by the Union legislator is therefore needed.***

*Amendment*

(27) The conditions for territorial cooperation should be created in accordance with the subsidiarity principle enshrined in Article 5(3) of the Treaty on the European Union. Member States have undertaken individual, bilateral or even multilateral initiatives to resolve legal border obstacles. However, those mechanisms do not exist in all Member States or not for all borders of a given Member State. The financing instruments (mainly Interreg) and the legal instruments (mainly EGTCs) provided at Union level so far have not been sufficient to resolve legal border obstacles throughout the Union . The objectives of the proposed action can consequently not be sufficiently achieved by the Member States, either at central level or at regional and local level, but, ***despite*** the scale or effects of the proposed action, ***cannot*** be better achieved at Union level.

Or. fr

**Amendment 14**  
**Luke Ming Flanagan**

**Proposal for a regulation**  
**Recital 28 a (new)**

*Text proposed by the Commission*

*Amendment*

***(28a) The triggering of Article 50 TEU by the United Kingdom government following the vote on Brexit has created an unprecedented situation for the European Union in the border regions between the Republic of Ireland and the Six-County/Northern Ireland region of the United Kingdom, whereby the close cooperation that has been established there over the past several decades is now threatened. Regardless of the provisions of any final agreement, a means should be found whereby this close cooperation is maintained in the post-Brexit situation.***

Or. en

**Amendment 15**  
**Marijana Petir**

**Proposal for a regulation**  
**Article 4 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. Member States may also use the Mechanism in cross-border regions on maritime borders or in cross-border regions between one or more Member States and one or more third countries or one or more overseas countries and territories.

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***When Member States use the Mechanism in cross-border regions on maritime borders or in cross-border regions between Member States and third countries, the transferring state is always the Member State.***

***When Member States use the Mechanism in cross-border regions on maritime borders or in cross-border regions between Member States and accession countries, the transfer of the specific legal***

*provisions of the transferring accession country shall be allowed by way of derogation from the second subparagraph, provided that the legislation of that country, entity or region, relating to the application and the subject of the Mechanism and the environmental protection, is fully consistent with Union law.*

Or. en

**Amendment 16**  
**Marijana Petir**

**Proposal for a regulation**  
**Article 15 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 15a*

*The competent authorities of the Member States, countries, entities or regions involved shall adopt, in accordance with their constitutional and legally defined specific competencies, the proposed ad hoc legal solution before concluding and signing the Commitment or signing the Statement pursuant to Articles 16 and 17.*

Or. en